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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/362,731    07/29/99    SAINT-REMY    J    01699/P.UCB.

HM22/0403

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EXAMINER

STROUP, C

ART UNIT

PAPER NUMBER

1633

DATE MAILED:

04/03/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/362,731

Applicant(s)

Saint-Remy et al

Examiner

Stroup, Carrie

Group Art Unit  
1633



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-12, 15, and 16 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-12, 15, and 16 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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**DETAILED ACTION**

***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1, 3-12, 15, and 16, drawn to a peptide based compound and its method of use in the prevention and treatment of allergies, classified in class 424, subclass 185.1.
  - II. Claims 2, and 8, drawn to nucleic acid based compound encoding antigens, classified in class 435, subclass 320.1.

Applicant is advised that where a single claim encompasses more than one invention as defined above, upon election of an invention for examination, said claim will only be examined to the extent that it reads upon the elected invention.

2. The inventions are distinct, each from the other because of the following reasons:

The inventions of groups I-II are drawn to materially different physical and chemical properties, structures, and methods of use. For example, the invention of group I is drawn to a peptide based vaccine for the prevention and treatment of allergies, while the invention of group II is drawn to a DNA vaccine for the prevention and treatment of allergies. The structure, function, and utilities of vaccine of group I are different from those of group II, wherein peptide vaccines elicit humoral responses while DNA vaccines elicit humoral and cytolytic responses.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their divergent classifications, recognized divergent subject matter and further because the searches required for the different inventions are not coextensive, restriction for examination purposes as indicated is proper.

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4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet Kerr whose telephone number is (703) 305-4055. The examiner can normally be reached on Monday through Friday from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John LeGuyader, can be reached at (703) 308-0447. The fax phone number for this Group is (703) 308-8724.

Carrie Stroup



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